



# PUBLIC NOTICE

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## **INTERNATIONAL BUREAU ANNOUNCES REVIEW OF LUMP SUM ELECTIONS**

**IB Docket No. 20-205**  
**GN Docket No. 20-305**

1. With this Public Notice, the International Bureau (the Bureau) provides information on its review of lump sum elections submitted by earth station operators, including a list of those filings deemed accepted by the Bureau and those that remain subject to additional review.

2. In the *3.7 GHz Band Report and Order* the Commission defined the criteria that earth stations must satisfy to be eligible as incumbent earth stations to receive reimbursement for their reasonable relocation costs.<sup>1</sup> Specifically, incumbent earth stations are those FSS earth stations that have demonstrated that they meet the following requirements:

- (1) The FSS earth station must have been operational as of the April 19, 2018 filing freeze and remain operational; and must have been registered (receive-only) or licensed (transmit/receive) in the 3700-4200 MHz band.
- (2) If the FSS earth station was unregistered or unlicensed before April 19, 2018, its registration or license applications must have been filed by November 7, 2018.<sup>2</sup>
- (3) If the FSS earth station was registered or licensed before April 19, 2018, the registrant or licensee must have:
  - a. Certified the accuracy of the registration/license information in IBFS by May 28, 2019; or
  - b. Filed a modification/update to the registration or license in IBFS during the April 19, 2018 to November 7, 2018 filing window; or
  - c. Filed a timely renewal application for the existing registration or license by May 28, 2019.<sup>3</sup>

3. The *3.7 GHz Band Report and Order* established that incumbent FSS earth station operators may accept either: (1) reimbursement for their actual reasonable relocation costs to maintain satellite reception; or (2) a lump sum reimbursement “based on the average, estimated costs of relocating all of

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<sup>1</sup> *Expanding Flexible Use of the 3.7 to 4.2 GHz Band*, Report and Order and Order of Proposed Modification, 35 FCC Rcd 2343, 2391, paras. 116-23 (2020) (*3.7 GHz Band Report and Order*). The *3.7 GHz Band Report and Order* specifically rejected a request to open an additional earth station filing window. *Id.* at 2391, paras. 120-21.

<sup>2</sup> *3.7 GHz Report and Order*, 35 FCC Rcd at 2391, para. 116.

<sup>3</sup> *Id.* at 2391, para. 117; 47 CFR § 27.1411(b)(3) (defining incumbent earth stations); 47 CFR § 25.121 (describing earth station renewal requirements). See also *International Bureau Releases Updated List of Incumbent Earth Stations in the 3.7-4.2 GHz Band in the Contiguous United States*, Public Notice, DA 20- (Oct. 23, 2020) (*October 23 Incumbent Earth Station List PN*) at 1-2.

their incumbent earth stations” to the upper 200 megahertz of the C-band.<sup>4</sup> The *3.7 GHz Band Report and Order* required that incumbent earth station operators (including any affiliates) elect the lump sum option for either all of its incumbent earth stations (within the contiguous United States) or none of them.<sup>5</sup>

4. On July 30, 2020, the Wireless Telecommunications Bureau released a Public Notice adopting the Cost Catalog, which set the amounts that will be available to incumbent earth station operators electing to receive a lump sum payment in place of their actual reasonable relocation costs.<sup>6</sup> That Public Notice also established a process for electing lump sum payments, including the specific information required to make a lump sum election and a requirement that the election include a six-part certification by a duly authorized representative with authority to bind the earth station.<sup>7</sup> The Public Notice required that incumbent earth station owners make their lump sum payment election no later than August 31, 2020, a date that was later extended until September 14, 2020.<sup>8</sup>

5. On August 3, 2020, the Bureau released a list of those FSS earth stations in the 3.7-4.2 GHz band in the contiguous United States (*August 3 Incumbent Earth Station PN*) that the Bureau found satisfy the criteria to be classified as incumbent earth stations for purposes of the C-band band transition.<sup>9</sup>

6. Approximately 2,000 filings from more than 1,500 separate filers were submitted in ECFS by the September 14, 2020, deadline.<sup>10</sup> The Bureau has reviewed all of these submissions for compliance with the lump sum requirements—including the requirement that an earth station operator (including all affiliates) select the lump sum option for either none or all of its incumbent earth stations. The Bureau initiated its review by comparing the information in the lump sum filings against the August 3 incumbent earth station list and has conducted extensive outreach where that review has raised questions.

7. During that review, for instance, the Bureau found a number of elections had failed to include all of an earth station operator’s incumbent earth stations as provided on the August 3<sup>rd</sup> List. In response to staff follow-up, virtually all of those filers indicated that their lump sum elections were correct, and that they had not included the missing earth stations because those stations had not been operational for more than 90 days before the lump sum election deadline.<sup>11</sup> In other cases, parties included earth stations in their lump sum filings that do not qualify for incumbent status and therefore are not eligible for lump sum payments. In some other situations, filers have responded to Bureau staff inquiries by reporting that

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<sup>4</sup> *3.7 GHz Report and Order*, 35 FCC Rcd. at 2427-28, paras. 202-203.

<sup>5</sup> See *id.* at 2427-28, paras. 202-04 & n.550. Payment of lump sum amounts will be the obligation of 3.7 GHz licensees after completion of the 3.7 GHz auction and the licensing of winning bidders. *Id.* at 2553; 47 § CFR 27.1418.

<sup>6</sup> *Wireless Telecommunications Bureau Releases Final Cost Category Schedule for 3.7-4.2 GHz Band Relocation Expenses*, GN Docket No. 18-122, Public Notice, 35 FCC Rcd 7967 (WTB 2020).

<sup>7</sup> *Id.* at 7989-91.

<sup>8</sup> *Wireless Telecommunications Bureau Extends C-band Lump Sum Election*, GN Docket No. 18-122, Public Notice, 35 FCC Rcd 8856 (WTB 2020)...

<sup>9</sup> See *August 3 Incumbent Earth Station List PN*.

<sup>10</sup> The Bureau has reviewed under the lump sum election standards those initial filings carried in ECFS as received on September 15, 2020, as well as those postmarked on or before September 14, 2020. The Bureau also has reviewed the resubmitted portions of the paper filing by James P. Baxley, Jr., on behalf of Gulf Coast State College that apparently were misplaced within the FCC. The Bureau dismisses the initial filing of Bond Broadcasting, Inc., which was filed on September 18, 2020, where the lateness was attributed to an unspecified “technical malfunction.”

<sup>11</sup> In those cases, Bureau staff have directed those filers to surrender those authorizations (where all of the earth stations under an authorization are no longer operational), or to file pleadings in IBFS via the Pleadings and Comments link on the MyIBFS homepage to allow Bureau staff to close out discontinued earth stations in authorizations that still include one or more currently operational earth stations.

they no longer control the earth stations listed in their name on the August 3 list because they had assigned those stations to a third party but had not filed the required post-consummation notification with the Commission.<sup>12</sup> In addition, as described in an accompanying Public Notice, the earth stations on the August 3 list have been subject to the ordinary processing of applications that have resulted in the updating of the information in IBFS. For instance, that list included incumbent earth stations that were still the subject of pending applications that have since been granted, and authorizations have been assigned to new entities with proper notification.

8. During the course of the review, Bureau staff have requested filers electing to receive lump sum payments to make filings to bring the information in their lump sum elections and the information in IBFS into conformance. Those filings have included errata to lump sum elections in ECFS to revise the information included in those filings, as well as a substantial number of filings in IBFS to correct the information in that licensing system and therefore in the incumbent earth station list.

9. The results of the Bureau's review are shown in the attached Table of Lump Sum Elections. In particular, as of the release of this Public Notice, the Bureau has Accepted 1,351 out of a total of 1,528 lump sum elections, or 88% of elections.<sup>13</sup> We anticipate that the current status of our review and the substantial number of lump sum elections accepted to date should provide 3.7 GHz band licensees with certainty regarding future use of the band.

10. The Table is organized by the name of the entity making the lump sum election. It then lists the names of the one or more registrants or licensees in the Incumbent Earth Station List included in that lump sum election. A lump sum election is listed as "Accepted" in the Status column if, after any necessary revisions have been made in the lump sum filing and/or in IBFS, a lump sum election has been found to satisfy the basic requirements to qualify for that election, including the requirement that the election include all of the earth station operator's incumbent earth stations.<sup>14</sup> In those cases, the information in the lump sum election should be consistent with the information contained in the Updated Incumbent Earth Station List.<sup>15</sup> More detailed information on the lump sum election can be found in the relevant election filing(s) in ECFS.

11. Where questions remain regarding whether a lump sum election has satisfied the necessary requirements, the Status column provides information on the current state of review.

- The status "Certification Issues" indicates that there are questions regarding whether the certification provided with the lump sum filing satisfies the requirements of the Public Notice.
- The status "Antenna/Quantity Mismatch" indicates that the number of antennas listed in the Incumbent Earth Station List does not match that in the lump sum election, or some of the specific antenna information, such as the SiteID or AntID, do not match.

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<sup>12</sup> 47 CFR § 25.119(j).

<sup>13</sup> We consider as a single lump sum election those cases where the same earth station operator has made multiple earth station filings. For instance, some operators filed separately for each individual earth station.

<sup>14</sup> The Bureau has made no determination regarding the accuracy of a lump sum filing's representations regarding: the category of lump sum election for each registered antenna (e.g., Receive Only ES Single-feed; Receive Only ES Multi-feed; Small Multi-beam (2-4 beam) ES, etc.), whether the earth station site is an MVPD site, or the total lump sum amount claimed for an earth station site. *PN* at para 41. If a lump sum election includes not only incumbent earth stations, but also additional earth stations for which a waiver was requested and denied, the lump sum election is Accepted when the requirements are met for the incumbent earth stations.

<sup>15</sup> To the extent that there are inadvertent errors in the information in IBFS that is included in the updated incumbent earth station list, the Bureau reserves the right to make any necessary corrections.

- The status “Further Review” indicates that there remain issues to resolve that do not fall into the above categories.

12. Finally, the “Intended Action” column indicates by lump sum filer whether it intends to transition its antennas to the Upper 200 MHz of the C-band or discontinue use of the C-Band. That decision can vary by antenna, so the column includes a “Combination” designation where the filer has indicated that intent.<sup>16</sup>

13. The Bureau will continue to work expeditiously with entities whose lump sum elections have not been accepted to attempt to resolve outstanding issues and either accept those elections or find that they do not comply with the relevant requirements, with the goal of resolving all outstanding issues prior to November 2, 2020, the upfront payment deadline for the 3.7 GHz auction (Auction 107). Earth station operators whose lump sum elections are not listed as “accepted” are encouraged to review their filings in detail and coordinate with International Bureau staff as soon as possible to resolve any issues prior to this date. Failure to resolve issues associated with lump sum elections with Bureau staff by October 28, 2020, may result in denial or rejection of those elections. In those cases, all of an earth station operators’ incumbent earth stations will be eligible for reimbursement for reasonable relocation costs incurred as a result of the C-band transition, as set out in the *3.7 GHz Report and Order*.

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<sup>16</sup> For instance, the Church of Jesus Christ of Latter-Day Saints intends to discontinue use of the C-band for all of its incumbent earth stations with the exception of five antennas in Riverton, Utah.